

AMENDED IN SENATE APRIL 14, 1998

SENATE BILL

No. 2199

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**Introduced by Senator Lockyer**

**(Principal ~~coauthor: Senator Vasconcellos~~ coauthors:**

***Senators Hughes, Thompson, and Vasconcellos*)**

***(Principal coauthor: Assembly Member Cedillo)***

**(Coauthors: Senators Alpert, ~~Rosenthal~~ Costa, Karnette,  
Lee, Rosenthal, Sher, Solis, and Watson)**

***(Coauthor: Assembly Member Alquist)***

***(Coauthors: Assembly Members Alquist, Aroner, Baca,  
Bordonaro, Brown, Davis, Granlund, Havice, Honda,  
Keeley, Kuehl, Murray, Ortiz, Perata, Strom-Martin,  
Thomson, Washington, Wildman, Woods, and Wright)***

February 20, 1998

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An act to amend Sections 15610.07, 15610.10, 15610.17, 15610.30, 15610.55, 15610.57, 15630, 15640, 15650, 15658, and 15659 of, and to add Chapter 13.5 (commencing with Section 15760) to Part 3 of Division 9 of, the Welfare and Institutions Code, relating to adult abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 2199, as amended, Lockyer. Elder and dependent adult abuse.

(1) Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, sets forth provisions for the reporting of actual or suspected physical or other abuse, as defined, of an elder or dependent adult by specified persons and entities, including care custodians, and imposes various requirements

on state and local agencies in processing, investigating, and reporting on these reports.

This bill, among other things, would broaden and redefine “abuse,” “adult protective services,” “neglect,” and “care custodian” for purposes of these provisions, would change references from “fiduciary abuse” to “financial abuse,” and would revise provisions relating to the reporting of abuse by an adult protective services agency to a local law enforcement agency or the long-term care ombudsman program.

(2) Existing law imposes specified requirements on a mandated reporter, as defined, with respect to the observation and reporting of physical abuse of an elder or dependent adult. Violation of these provisions is a misdemeanor.

This bill would revise these provisions and would include abandonment, isolation, financial abuse, and neglect as reportable abuse for purposes of these requirements. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3) Existing law authorizes adult protective services to include investigations, needs assessment, the use of a multidisciplinary personnel team in order to obtain information and records necessary for adult protective services, a system in which reporting can occur on a 24-hour basis, emergency shelter, and adult respite care. Existing law also specifies the members of the multidisciplinary personnel team.

This bill would enact enhanced adult protective services provisions that would be implemented only to the extent funds for this enhancement are provided in the annual Budget Act. These provisions would require, rather than authorize, adult protective services to include the above protective actions, would add a public guardian to the members of the multidisciplinary personnel team, and would require each county to establish an emergency response adult protective services program containing specified requirements. The imposition of these new requirements on counties would create a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs

mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of  
2 the following:

3 (a) California's mandatory reporting laws, first  
4 enacted in 1982, have brought the tragedy of elder and  
5 dependent adult abuse to public attention. Annually,  
6 225,000 incidents of adult abuse occur in California--an  
7 increase of over 1000 percent over the number of  
8 incidents in 1986-87. Twenty-three percent of the  
9 incidents involve physical abuse, 32 percent involve  
10 fiduciary abuse, 22 percent involve mental suffering, and  
11 3.8 percent involve sexual abuse. In addition to the  
12 victimization by another person, in more than 50 percent  
13 of the incidents the elder or dependent adult is unable to  
14 meet their own needs due to frailty, untreated health  
15 conditions, mental or emotional problems, or family  
16 dysfunctions.

17 (b) California counties lack the ability to respond to  
18 approximately 80 percent of the incidents. In 1996-97 the  
19 Adult Protective Services Program statewide was able to  
20 respond to fewer than 44,000 of the 225,000 incidents.

1 (c) Staff assigned to Adult Protective Services  
2 programs statewide has decreased by 35 percent since  
3 1990 in California.

4 (d) Forty-five percent of the California counties no  
5 longer provide case management services in Adult  
6 Protective Services. Fifty percent of the counties do not  
7 provide counseling. Fifty percent do not provide a  
8 24-hour hotline, money management, or tangible services  
9 critical to ongoing safety and protection of the elders and  
10 dependent adults.

11 (e) Fewer than 20 percent of the counties respond to  
12 all Adult Protective Service reports. Counties must triage  
13 calls and are unable to respond to many serious types of  
14 abuse.

15 (f) To remedy situations of immediate danger to  
16 vulnerable elders and dependent adults, it is urgent that  
17 California establishes and funds a comprehensive adult  
18 protective services program statewide.

19 SEC. 2. Section 15610.07 of the Welfare and  
20 Institutions Code is amended to read:

21 15610.07. "Abuse of an elder or a dependent adult"  
22 means physical abuse, neglect, financial abuse,  
23 abandonment, isolation, abduction, or other treatment  
24 with resulting physical harm or pain or mental suffering,  
25 or the deprivation by any person of goods or services that  
26 are necessary to avoid physical harm or mental suffering.

27 SEC. 3. Section 15610.10 of the Welfare and  
28 Institutions Code is amended to read:

29 15610.10. "Adult protective services" means those  
30 preventive and remedial activities performed on behalf  
31 of elders and dependent adults who are unable to protect  
32 their own interests, harmed or threatened with harm,  
33 caused physical or mental injury due to the action or  
34 inaction of another person or their own action as a result  
35 of ignorance, illiteracy, incompetence, mental limitation,  
36 ~~addiction~~ *substance abuse*, or poor health, lacking in  
37 adequate food, shelter, or clothing, exploited of their  
38 income and resources, or deprived of entitlement due  
39 them.

1 SEC. 4. Section 15610.17 of the Welfare and  
2 Institutions Code is amended to read:

3 15610.17. “Care custodian” means an administrator or  
4 an employee of any of the following public or private  
5 facilities or agencies, or persons providing care or services  
6 for elders or dependent adults, including members of the  
7 support staff and maintenance staff:

8 (a) Twenty-four-hour health facilities, as defined in  
9 Sections 1250, 1250.2, and 1250.3 of the Health and Safety  
10 Code.

11 (b) Clinics.

12 (c) Home health agencies.

13 (d) Agencies providing publicly funded in-home  
14 supportive services, nutrition services, or other home and  
15 community-based support services.

16 (e) Adult day health care centers and adult day care.

17 (f) Secondary schools that serve 18- to 22-year-old  
18 dependent adults and postsecondary educational  
19 institutions that serve dependent adults or elders.

20 (g) Independent living centers.

21 (h) Camps.

22 (i) Alzheimer’s Disease day care resource centers.

23 (j) Community care facilities, as defined in Section  
24 1502 of the Health and Safety Code, and residential care  
25 facilities for the elderly, as defined in Section 1569.2 of the  
26 Health and Safety Code.

27 (k) Respite care facilities.

28 (l) Foster homes.

29 (m) Vocational rehabilitation facilities and work  
30 activity centers.

31 (n) Designated area agencies on aging.

32 (o) Regional centers for persons with developmental  
33 disabilities.

34 (p) State Department of Social Services and State  
35 Department of Health Services licensing divisions.

36 (q) County welfare departments.

37 (r) Offices of patients’ rights advocates and clients’  
38 rights advocates, including attorneys.

39 (s) The office of the long-term care ombudsman.

1 (t) Offices of public conservators, public guardians,  
2 and court investigators.

3 (u) Any protection or advocacy agency or entity that  
4 is designated by the Governor to fulfill the requirements  
5 and assurances of the following:

6 (1) The federal Developmental Disability Assistance  
7 and Bill of Rights Act, as amended, contained in Chapter  
8 75 (commencing with Section 6000) of Title 42 of the  
9 United States Code, for protection and advocacy of the  
10 rights of persons with developmental disabilities.

11 (2) The Protection and Advocacy for the Mentally Ill  
12 Individuals Act of 1986, as amended, contained in  
13 Chapter 114 (commencing with Section 10801) of Title 42  
14 of the United States Code, for the protection and  
15 advocacy of the rights of persons with mental illnesses.

16 (v) Any other protective, public, sectarian, mental  
17 health, or private assistance or advocacy agency or person  
18 providing health services or social services to elders or  
19 dependent adults.

20 SEC. 5. Section 15610.30 of the Welfare and  
21 Institutions Code is amended to read:

22 15610.30. (a) "Financial abuse" means a situation in  
23 which one or both of the following apply:

24 (1) A person, including, but not limited to, one who  
25 has the care or custody of, or who stands in a position of  
26 trust to, an elder or a dependent adult, takes, secretes, or  
27 appropriates their money or property, to any wrongful  
28 ~~use, or for any purpose not in the due and lawful~~  
29 ~~execution of his or her trust.~~ *use, or with the intent to*  
30 *defraud.*

31 (2) A situation in which all of the following conditions  
32 are satisfied:

33 (A) An elder (who would be a dependent adult if he  
34 or she were between the ages of 18 and 64) or dependent  
35 adult or his or her representative requests that a third  
36 party transfer to the elder or dependent adult or to his or  
37 her representative, or to a court appointed receiver,  
38 property that meets all of the following criteria:

39 (i) The third party holds or has control of the property.

1 (ii) The property belongs to, or is held in express trust,  
2 constructive trust or resulting trust for, the elder or  
3 dependent adult.

4 (iii) The ownership or control of the property was  
5 acquired in whole or in part by the third party or someone  
6 acting in concert with the third party from the elder or  
7 dependent adult at a time when the elder or dependent  
8 adult was a dependent adult or was a person who would  
9 have been a dependent adult if he or she had then been  
10 between the ages of 18 and 64.

11 (B) Despite the request for the transfer of property,  
12 the third party without good cause either continues to  
13 hold the property or fails to take reasonable steps to make  
14 the property readily available to the elder or dependent  
15 adult, to his or her representative or to a court appointed  
16 receiver.

17 (C) The third party committed acts described in this  
18 paragraph in bad faith. A third party shall be deemed to  
19 have acted in bad faith if the third party either knew or  
20 should have known that the elder or dependent adult had  
21 the right to have the property transferred or made  
22 readily available. For purposes of this subdivision, a third  
23 party should have known of this right if, on the basis of the  
24 information received by the elder or dependent adult, or  
25 the elder or dependent adult's representative, it is  
26 obvious to a reasonable person that the elder or  
27 dependent adult had this right.

28 (b) For the purpose of this section, the term "third  
29 party" means a person who holds or has control of  
30 property that belongs to or is held in express trust,  
31 constructive trust or resulting trust for an elder or  
32 dependent adult.

33 (c) For the purposes of this section, the term  
34 "representative" means an elder or dependent adult's  
35 conservator of the estate, or attorney-in-fact acting within  
36 the authority of the power of attorney.

37 SEC. 6. Section 15610.55 of the Welfare and  
38 Institutions Code is amended to read:

39 15610.55. (a) "Multidisciplinary personnel team"  
40 means any team of two or more persons who are trained

1 in the prevention, identification, and treatment of abuse  
2 of elderly or dependent persons and who are qualified to  
3 provide a broad range of services related to abuse of  
4 elderly or dependent persons, as defined in Section  
5 15753.5.

6 (b) A multidisciplinary personnel team may include,  
7 but is not limited to, all of the following:

8 (1) Psychiatrists, psychologists, or other trained  
9 counseling personnel.

10 (2) Police officers or other law enforcement agents.

11 (3) Medical personnel with sufficient training to  
12 provide health services.

13 (4) Social workers with experience or training in  
14 prevention of abuse of elderly or dependent persons.

15 (5) Public guardians.

16 SEC. 7. Section 15610.57 of the Welfare and  
17 Institutions Code is amended to read:

18 15610.57. (a) "Neglect" means either of the  
19 following:

20 (1) The negligent failure of any person having the care  
21 or custody of an elder or a dependent adult to exercise  
22 that degree of care that a reasonable person in a like  
23 position would exercise.

24 (2) The negligent failure of the person themselves to  
25 exercise that degree of care that a reasonable person in  
26 a like position would exercise.

27 (b) Neglect includes, but is not limited to, all of the  
28 following:

29 (1) Failure to assist in personal hygiene, or in the  
30 provision of food, clothing, or shelter.

31 (2) Failure to provide medical care for physical and  
32 mental health needs. No person shall be deemed  
33 neglected or abused for the sole reason that he or she  
34 voluntarily relies on treatment by spiritual means  
35 through prayer alone in lieu of medical treatment.

36 (3) Failure to protect from health and safety hazards.

37 (4) Failure to prevent malnutrition or dehydration.

38 (5) Failure of a person to provide the needs specified  
39 in paragraphs (1) to (4), inclusive, for themselves due to



1 *ignorance*, illiteracy, incompetence, mental limitation,  
2 substance abuse, or poor health.

3 SEC. 8. Section 15630 of the Welfare and Institutions  
4 Code is amended to read:

5 15630. (a) Any elder or dependent adult care  
6 custodian, health practitioner, or employee of a county  
7 adult protective services agency or a local law  
8 enforcement agency is a mandated reporter.

9 (b) Any mandated reporter, who, in his or her  
10 professional capacity, or within the scope of his or her  
11 employment, has observed or has knowledge of an  
12 incident that reasonably appears to be physical abuse,  
13 abandonment, isolation, financial abuse, or neglect, or is  
14 told by an elder or dependent adult that he or she has  
15 experienced behavior constituting physical abuse,  
16 abandonment, isolation, financial abuse, or neglect, or  
17 reasonably suspects abuse shall report the known or  
18 suspected instance of abuse by telephone immediately or  
19 as soon as practically possible, and by written report sent  
20 within two working days, as follows:

21 (1) If the abuse has occurred in a long-term care  
22 facility, except a state mental health hospital or a state  
23 developmental center, the report shall be made to the  
24 local ombudsman or the local law enforcement agency.

25 (2) If the suspected or alleged abuse occurred in a  
26 state mental health hospital or a state developmental  
27 center, the report shall be made to designated  
28 investigators of the State Department of Mental Health  
29 or the State Department of Developmental Services or to  
30 the local law enforcement agency.

31 (3) If the abuse has occurred any place other than one  
32 described in paragraph (1), the report shall be made to  
33 the adult protective services agency or the local law  
34 enforcement agency.

35 (c) When two or more mandated reporters are  
36 present and jointly have knowledge or reasonably suspect  
37 that types of abuse of an elder or a dependent adult for  
38 which a report is mandated have occurred, and when  
39 there is agreement among them, the telephone report  
40 may be made by a member of the team selected by

1 mutual agreement, and a single report may be made and  
2 signed by the selected member of the reporting team.  
3 Any member who has knowledge that the member  
4 designated to report has failed to do so shall thereafter  
5 make the report.

6 (d) A telephone report of a known or suspected  
7 instance of elder or dependent adult abuse shall include  
8 the name of the person making the report, the name and  
9 age of the elder or dependent adult, the present location  
10 of the elder or dependent adult, the names and addresses  
11 of family members or any other person responsible for the  
12 elder or dependent adult's care, if known, the nature and  
13 extent of the elder or dependent adult's condition, the  
14 date of the incident, and any other information, including  
15 information that led that person to suspect elder or  
16 dependent adult abuse, requested by the agency  
17 receiving the report.

18 (e) The reporting duties under this section are  
19 individual, and no supervisor or administrator shall  
20 impede or inhibit the reporting duties, and no person  
21 making the report shall be subject to any sanction for  
22 making the report. However, internal procedures to  
23 facilitate reporting, ensure confidentiality, and apprise  
24 supervisors and administrators of reports may be  
25 established, provided they are not inconsistent with this  
26 chapter.

27 (f) (1) Whenever this section requires a county adult  
28 protective services agency to report to a law enforcement  
29 agency, the law enforcement agency shall, immediately  
30 upon request, provide a copy of its investigative report  
31 concerning the reported matter to that county adult  
32 protective services agency.

33 (2) Whenever this section requires a law enforcement  
34 agency to report to a county adult protective services  
35 agency, the county adult protective services agency shall,  
36 immediately upon request, provide a copy of its  
37 investigative report concerning the reported matter to  
38 that law enforcement agency.

39 (3) The requirement to disclose investigative reports  
40 pursuant to this subdivision shall not include the

1 disclosure of social services records or case files that are  
2 confidential, nor shall this subdivision be construed to  
3 allow disclosure of any reports or records if the disclosure  
4 would be prohibited by any other provision of state or  
5 federal law.

6 (g) Failure to report physical abuse, *abandonment*,  
7 isolation, financial abuse, or neglect of an elder or  
8 dependent adult, in violation of this section, is a  
9 misdemeanor, punishable by not more than six months in  
10 the county jail or by a fine of not more than one thousand  
11 dollars (\$1,000), or by both that fine and imprisonment.

12 SEC. 9. Section 15640 of the Welfare and Institutions  
13 Code is amended to read:

14 15640. (a) (1) An adult protective services agency  
15 shall immediately, or as soon as practically possible,  
16 report by telephone to the law enforcement agency  
17 having jurisdiction over the case any known or suspected  
18 instance of criminal activity, and to any public agency  
19 given responsibility for investigation in that jurisdiction  
20 of cases of elder and dependent adult abuse, every known  
21 or suspected instance of abuse pursuant to Section 15630  
22 of an elder or dependent adult. A county adult protective  
23 services agency shall also send a written report thereof  
24 within two working days of receiving the information  
25 concerning the incident to each agency to which it is  
26 required to make a telephone report under this  
27 subdivision.

28 (2) If an adult protective services agency receives a  
29 report of abuse alleged to have occurred in a long-term  
30 care facility, that adult protective services agency shall  
31 immediately inform the person making the report that he  
32 or she is required to make the report to the long-term  
33 care ombudsman program or to a local law enforcement  
34 agency. The adult protective services agency shall not  
35 accept the report by telephone but shall forward any  
36 written report received to the long-term care  
37 ombudsman.

38 (b) If an adult protective services agency or local law  
39 enforcement agency or ombudsman program receiving  
40 a report of known or suspected elder or dependent adult

1 abuse determines, pursuant to its investigation, that the  
2 abuse is being committed by a health practitioner  
3 licensed under Division 2 (commencing with Section  
4 500) of the Business and Professions Code, or any related  
5 initiative act, or by a person purporting to be a licensee,  
6 the adult protective services agency or local law  
7 enforcement agency or ombudsman program shall  
8 immediately, or as soon as practically possible, report this  
9 information to the appropriate licensing agency. The  
10 licensing agency shall investigate the report in light of the  
11 potential for physical harm. The transmittal of  
12 information to the appropriate licensing agency shall not  
13 relieve the adult protective services agency or local law  
14 enforcement agency or ombudsman program of the  
15 responsibility to continue its own investigation as  
16 required under applicable provisions of law. The  
17 information reported pursuant to this paragraph shall  
18 remain confidential and shall not be disclosed.

19 (c) A local law enforcement agency shall immediately,  
20 or as soon as practically possible, report by telephone to  
21 the long-term care ombudsman program when the abuse  
22 is alleged to have occurred in a long-term care facility or  
23 to the county adult protective services agency when it is  
24 alleged to have occurred anywhere else, and to the  
25 agency given responsibility for the investigation of cases  
26 of elder and dependent adult abuse every known or  
27 suspected instance of abuse of an elder or dependent  
28 adult. A local law enforcement agency shall also send a  
29 written report thereof within two working days of  
30 receiving the information concerning the incident to any  
31 agency to which it is required to make a telephone report  
32 under this subdivision.

33 (d) A long-term care ombudsman coordinator may  
34 report the instance of abuse to the county adult  
35 protective services agency or to the local law  
36 enforcement agency for assistance in the investigation of  
37 the abuse if the victim gives his or her consent. A  
38 long-term care ombudsman program and the Licensing  
39 and Certification Division of the State Department of  
40 Health Services shall immediately report by telephone

1 and in writing within two working days to the bureau any  
2 instance of neglect occurring in a health care facility, that  
3 has seriously harmed any patient or reasonably appears to  
4 present a serious threat to the health or physical  
5 well-being of a patient in that facility. If a victim or  
6 potential victim of the neglect withholds consent to being  
7 identified in that report, the report shall contain  
8 circumstantial information about the neglect but shall not  
9 identify that victim or potential victim and the bureau  
10 and the reporting agency shall maintain the  
11 confidentiality of the report until the report becomes a  
12 matter of public record.

13 (e) When a county adult protective services agency, a  
14 long-term care ombudsman program, or a local law  
15 enforcement agency receives a report of abuse, neglect,  
16 or abandonment of an elder or dependent adult alleged  
17 to have occurred in a long-term care facility, that county  
18 adult protective services agency, long-term care  
19 ombudsman coordinator, or local law enforcement  
20 agency shall report the incident to the licensing agency  
21 by telephone as soon as possible.

22 (f) County adult protective services agencies,  
23 long-term care ombudsman programs, and local law  
24 enforcement agencies shall report the results of their  
25 investigations of referrals or reports of abuse to the  
26 respective referring or reporting agencies.

27 SEC. 10. Section 15650 of the Welfare and Institutions  
28 Code is amended to read:

29 15650. (a) Investigation of reports of known or  
30 suspected instances of abuse in long-term care facilities  
31 shall be the responsibility of the long-term care  
32 ombudsman program, for instances of physical and  
33 financial abuse, the local law enforcement agency, and for  
34 instances of potential criminal neglect in a long-term  
35 health care facility, the long-term care ombudsman  
36 program and the bureau.

37 (b) Investigations of known or suspected instances of  
38 abuse outside of long-term care facilities shall be the  
39 responsibility of the county adult protective services  
40 agency and the local law enforcement agency unless

1 another public agency is given responsibility for  
2 investigation in that jurisdiction.

3 (c) The investigative responsibilities set forth in this  
4 section are in addition to, and not in derogation of or  
5 substitution for, the investigative and regulatory  
6 responsibilities of licensing agencies, such as the State  
7 Department of Social Services Community Care  
8 Licensing Division and the State Department of Health  
9 Services Licensing and Certification Division and their  
10 authorized representatives.

11 (d) Other public agencies involved in the  
12 investigation of abuse or advocacy of respective client  
13 populations, or both, include, but shall not be limited to,  
14 the State Department of Mental Health and the State  
15 Department of Developmental Services. Other public  
16 agencies shall conduct or assist in, or both, the  
17 investigation of reports of abuse of elder and dependent  
18 adults within their jurisdiction in conjunction with county  
19 adult protective services, local ombudsman programs  
20 and local law enforcement agencies.

21 (e) Each county adult protective services agency shall  
22 maintain an inventory of all public and private service  
23 agencies available to assist victims of abuse, as defined by  
24 Section 15610.07. This inventory shall be used to refer  
25 victims in the event that the county adult protective  
26 services agency cannot resolve the immediate needs of  
27 the victim, and to serve the victim on a long-term,  
28 followup basis. The intent of this section is to  
29 acknowledge that limited funds are available to resolve  
30 all suspected cases of abuse reported to a county adult  
31 protective services agency.

32 (f) Each local ombudsman program shall maintain an  
33 inventory of all public and private agencies available to  
34 assist long-term care residents who are victims of abuse,  
35 as defined by Section 15610.07. This inventory shall be  
36 used to refer cases of abuse in the event that another  
37 agency has jurisdiction over the resident, the abuse is  
38 verified and further investigation is needed by a law  
39 enforcement or licensing agency, or the program does  
40 not have sufficient resources to provide immediate

1 assistance. The intent of this section is to acknowledge  
2 that ombudsman responsibility in abuse cases is to receive  
3 reports, determine the validity of reports, refer verified  
4 abuse cases to appropriate agencies for further action as  
5 necessary, and follow up to complete the required report  
6 information. Other ombudsman services shall be  
7 provided to the resident, as appropriate.

8 SEC. 11. Section 15658 of the Welfare and Institutions  
9 Code is amended to read:

10 15658. (a) (1) The written abuse reports required  
11 for the reporting of abuse, as defined in this chapter, shall  
12 be submitted on forms adopted by the State Department  
13 of Social Services after consultation with representatives  
14 of the various law enforcement agencies, the California  
15 Department of Aging, the State Department of  
16 Developmental Services, the State Department of  
17 Mental Health, the bureau, professional medical and  
18 nursing agencies, hospital associations and county welfare  
19 departments. These reporting forms shall be distributed  
20 by the county adult protective services agencies and the  
21 long-term care ombudsman programs. This reporting  
22 form may also be used for documenting the telephone  
23 report of a known or suspected instance of abuse of an  
24 elder or dependent adult by the county adult protective  
25 services agency, local ombudsman program, and local law  
26 enforcement agencies.

27 (2) The forms required by this section shall contain the  
28 following items:

29 (A) The name, address, telephone number, and  
30 occupation of the person reporting.

31 (B) The name and address of the victim.

32 (C) The date, time, and place of the incident.

33 (D) Other details, including the reporter's  
34 observations and beliefs concerning the incident.

35 (E) Any statement relating to the incident made by  
36 the victim.

37 (F) The name of any individuals believed to have  
38 knowledge of the incident.

1 (G) The name of the individuals believed to be  
2 responsible for the incident and their connection to the  
3 victim.

4 (b) (1) Each county adult protective services agency  
5 shall report to the State Department of Social Services  
6 monthly on the reports received pursuant to this chapter.  
7 The reports shall be made on forms adopted by the  
8 department. The information reported shall include, but  
9 shall not be limited to, the number of incidents of abuse,  
10 the number of persons abused, the type of abuse  
11 sustained, and the actions taken on the reports. For  
12 purposes of these reports, sexual abuse shall be reported  
13 separately from physical abuse.

14 (2) The county's report to the department shall not  
15 include reports it receives from the long-term care  
16 ombudsman program pursuant to subdivision (c).

17 (3) The department shall refer to the bureau monthly  
18 data summaries of the reports of elder and dependent  
19 adult abuse, neglect, abandonment, isolation, and  
20 financial abuse, and other abuse it receives from county  
21 adult protective services agencies.

22 (c) Each long-term care ombudsman program shall  
23 report to the Office of the Long-Term Care Ombudsman  
24 of the California Department of Aging monthly on the  
25 reports it receives pursuant to this chapter with a copy  
26 sent to the county adult protective services agency. The  
27 office of the State Ombudsman shall submit a  
28 summarized quarterly report to the department based on  
29 the monthly reports submitted by local long-term care  
30 ombudsman programs. The reports shall be on forms  
31 adopted by the department and the office of the State  
32 Ombudsman. The information reported shall include, but  
33 shall not be limited to, the number of incidents of abuse,  
34 the numbers of persons abused, the type of abuse, and the  
35 actions taken on the reports. For purposes of these  
36 reports, sexual abuse shall be reported separately from  
37 physical abuse.

38 SEC. 12. Section 15659 of the Welfare and Institutions  
39 Code is amended to read:



1 15659. (a) Any person who enters into employment  
2 on or after January 1, 1995, as a care custodian, health  
3 practitioner, or with an adult protective services agency  
4 or a local law enforcement agency, prior to commencing  
5 his or her employment and as a prerequisite to that  
6 employment shall sign a statement on a form, that shall  
7 be provided by the prospective employer, to the effect  
8 that he or she has knowledge of Section 15630 and will  
9 comply with its provisions. The signed statement shall be  
10 retained by the employer.

11 (b) Agencies or facilities that employ persons required  
12 to make reports pursuant to Section 15630, who were  
13 employed prior to January 1, 1995, shall inform those  
14 persons of their responsibility to make reports by  
15 delivering to them a copy of the statement specified in  
16 subdivision (a).

17 (c) The cost of printing, distribution, and filing of  
18 these statements shall be borne by the employer.

19 (d) On and after January 1, 1995, when a person is  
20 issued a state license or certificate to engage in a  
21 profession or occupation the members of which are  
22 required to make a report pursuant to Section 15630, the  
23 state agency issuing the license or certificate shall send a  
24 statement substantially similar to the one contained in  
25 subdivision (a) to the person at the same time as it  
26 transmits the document indicating licensure or  
27 certification to the person.

28 (e) As an alternative to the procedure required by  
29 subdivision (d), a state agency may cause the required  
30 statement to be printed on all application forms for a  
31 license or certificate printed on or after January 1, 1995.

32 (f) The retention of statements required by  
33 subdivision (a), and the delivery of statements required  
34 by subdivision (b) shall be the full extent of the  
35 employer's duty pursuant to this section. The failure of  
36 any employee or other person associated with the  
37 employer to report abuse of elders or dependent adults  
38 pursuant to Section 15630 or otherwise meet the  
39 requirements of this chapter shall be the sole  
40 responsibility of that person. The employer or facility

1 shall incur no civil or other liability for the failure of these  
2 persons to comply with the requirements of this chapter.

3 SEC. 13. Chapter 13.5 (commencing with Section  
4 15760) is added to Part 3 of Division 9 of the Welfare and  
5 Institutions Code, to read:

6  
7 CHAPTER 13.5. ENHANCED SERVICES  
8

9 15760. Notwithstanding Section 15753, adult  
10 protective services shall include investigations, needs  
11 assessments, remedial, and preventative social work  
12 activities, and the necessary tangible resources such as  
13 food, transportation, emergency shelter, and in-home  
14 protective care, the use of multidisciplinary teams, and a  
15 system in which reporting or abuse can occur on a 24-hour  
16 basis.

17 15761. Notwithstanding Section 15753.5,  
18 “multidisciplinary personnel team” means any team of  
19 two or more persons who are trained in the prevention,  
20 identification, and treatment of abuse of elderly or  
21 dependent persons and who are qualified to provide a  
22 broad range of services related to abuse of elderly or  
23 dependent persons. The team may include, but is not  
24 limited to:

25 (a) Psychiatrists, psychologists, or other trained  
26 counseling personnel.

27 (b) Police officers or other law enforcement agents.

28 (c) Medical personnel with sufficient training to  
29 provide health services.

30 (d) Social workers with experience or training in  
31 prevention of abuse of elderly or dependent persons.

32 (e) Public guardian.

33 15762. (a) When an allegation of abuse of an elder or  
34 dependent adult is reported to a county designated adult  
35 protective service agency and an agency social worker  
36 has reason to believe an elder or dependent adult has  
37 suffered or is at substantial risk of abuse pursuant to  
38 Section 15630, the social worker shall attempt to obtain  
39 consent to enter and meet privately with the elder or  
40 dependent adult about whom the report was made in the

1 residence or dwelling in which the elder or dependent  
2 adult resides without the presence of the person's  
3 caretaker, attendant, or family or household member,  
4 unless the person requests the presence of the attendant,  
5 caregiver, or family member, or refuses to meet with the  
6 social worker.

7 (b) If there is probable cause to believe that a felony  
8 violation of Section 368 of the Penal Code has occurred  
9 and a county social worker has been denied entry to meet  
10 privately with the person about whom the report has  
11 been made, the county social worker may request  
12 accompaniment by the local law enforcement agency.

13 ~~15767.—~~

14 15763. (a) Each county shall establish an emergency  
15 response adult protective services program that shall  
16 provide in-person response, 24 hours per day, seven days  
17 per week, to reports of abuse of an elder or a dependent  
18 adult, for the purpose of providing immediate intake or  
19 intervention, or both, to new reports involving  
20 immediate life threats and to crises in existing cases. The  
21 program shall include policies and procedures to  
22 accomplish all of the following:

23 (1) Provision of case management services ~~to that~~  
24 include investigation of the protection issues, assessment  
25 of the person's concerns, needs, strengths, problems, and  
26 ~~limitations, and case or service plan to alleviate identified~~  
27 ~~problems, development of joint service plan, counseling,~~  
28 ~~stabilizing, monitoring, and followup.~~ *limitations,*  
29 *stabilization and linking with community services, and*  
30 *development of a service plan to alleviate identified*  
31 *problems utilizing counseling, monitoring, followup, and*  
32 *reassessment.*

33 (2) Provisions for emergency shelter or in-home  
34 protection to guarantee a safe place for the elder or  
35 dependent adult to stay until the dangers at home can be  
36 resolved.

37 (3) Establishment of multidisciplinary teams to  
38 develop interagency treatment strategies, to ensure  
39 maximum coordination with existing community

1 resources, to ensure maximum access on behalf of elders  
2 and dependent adults, and to avoid duplication of efforts.

3 (b) A county shall respond immediately to any report  
4 of imminent danger to an elder or dependent adult  
5 residing in other than a long-term care facility, as defined  
6 in Section 9701 of the Health and Safety Code, or a  
7 residential facility, as defined in Section 1502 of the  
8 Health and Safety Code. For reports involving persons  
9 residing in a long-term care facility or a residential care  
10 facility, the county shall report to the local long-term care  
11 ombudsman program. Adult protective services staff  
12 shall consult, coordinate, and support efforts of the  
13 ombudsman program to protect vulnerable residents.  
14 The county shall respond to all other reports of danger to  
15 an elder or dependent adult in other than a long-term  
16 care facility or residential care facility within 10 calendar  
17 days or as soon as practically possible.

18 (c) A county shall provide case management services  
19 to elders and dependent adults who are determined to be  
20 in need of adult protective services for the purpose of  
21 bringing about changes in the lives of victims and to  
22 provide a safety net to enable victims to protect  
23 themselves in the future. Case management services shall  
24 include the following, to the extent services are  
25 appropriate for the individual:

26 (1) Investigation of the protection issues, including,  
27 but not limited to, social, medical, environmental,  
28 physical, emotional, and developmental.

29 (2) Assessment of the person's concerns and needs on  
30 whom the report has been made and the concerns and  
31 needs of other members of the family and household.

32 (3) Analysis of problems and strengths.

33 (4) Establishment of a service plan for each person on  
34 whom the report has been made to alleviate the  
35 identified problems.

36 (5) Client input and acceptance of proposed service  
37 plans.

38 (6) Counseling for clients and significant others to  
39 alleviate the identified problems and to implement the  
40 service plan.

1 (7) Stabilizing and linking with community services.

2 (8) Monitoring and followup.

3 (9) Reassessments, as appropriate.

4 (d) To the extent resources are available, each county  
5 shall provide emergency shelter in the form of a safe  
6 haven or in-home protection for victims. Shelter and care  
7 appropriate to the needs of the victim shall be provided  
8 for frail and disabled victims who are in need of assistance  
9 with activities of daily living.

10 (e) Each county shall designate an adult protective  
11 services agency to establish and maintain  
12 multidisciplinary teams including, but not limited to,  
13 adult protective services, law enforcement, home health  
14 care agencies, hospitals, adult protective services staff,  
15 the public guardian, private community service agencies,  
16 public health agencies, and mental health agencies for  
17 the purpose of providing interagency treatment  
18 strategies.

19 (f) Each county shall provide tangible support  
20 services, to the extent resources are available, which may  
21 include, but not be limited to, emergency food, clothing,  
22 repair or replacement of essential appliances, plumbing  
23 and electrical repair, blankets, linens, and other  
24 household goods, advocacy with utility companies, and  
25 emergency response units.

26 15764. Notwithstanding Section 10101.1, a county  
27 shall have no share of any nonfederal expenditures above  
28 the required expenditures for this program in the 1996–97  
29 fiscal year, provided that the county has maintained the  
30 level of county matching funds it provided for this  
31 program in the 1996–97 *fiscal* year.

32 15765. This chapter shall be implemented only to the  
33 extent funds are provided in the annual Budget Act.

34 SEC. 14. No reimbursement is required by this act  
35 pursuant to Section 6 of Article XIII B of the California  
36 Constitution for certain costs that may be incurred by a  
37 local agency or school district because in that regard this  
38 act creates a new crime or infraction, eliminates a crime  
39 or infraction, or changes the penalty for a crime or  
40 infraction, within the meaning of Section 17556 of the

1 Government Code, or changes the definition of a crime  
2 within the meaning of Section 6 of Article XIII B of the  
3 California Constitution.

4 However, notwithstanding Section 17610 of the  
5 Government Code, if the Commission on State Mandates  
6 determines that this act contains other costs mandated by  
7 the state, reimbursement to local agencies and school  
8 districts for those costs shall be made pursuant to Part 7  
9 (commencing with Section 17500) of Division 4 of Title  
10 2 of the Government Code. If the statewide cost of the  
11 claim for reimbursement does not exceed one million  
12 dollars (\$1,000,000), reimbursement shall be made from  
13 the State Mandates Claims Fund.

14 Notwithstanding Section 17580 of the Government  
15 Code, unless otherwise specified, the provisions of this act  
16 shall become operative on the same date that the act  
17 takes effect pursuant to the California Constitution.

